

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.:	10/767,407)	Confirmation No. 2870
Applicants:	Doaga et al.)	<u>CERTIFICATE OF MAILING</u>
Filed:	January 29, 2004)	
For:	GOLF COURSE COMMUNICATION)	This Reply Brief was electronically
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Examiner:	Robert E. Mosser)	EFS Web
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Docket No.:	6234/79714)	
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REPLY BRIEF

Commissioner for Patents
P.O. Box 1450
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Pursuant to 37 C.F.R. §41.41, the applicant hereby respectfully submits the following Reply Brief in support of their appeal and in response to the Examiner's Answer mailed January 17, 2008 in the above captioned matter. The applicant respectfully represents that this Reply Brief does not include any new or non-admitted amendment nor any new or non-admitted affidavit or other evidence. This Reply Brief contains only responses to the new grounds of rejection as were raised by the Examiner in the aforementioned Examiner's Answer; accordingly, the reader is referred to the Appeal Brief for the applicant's case in chief.

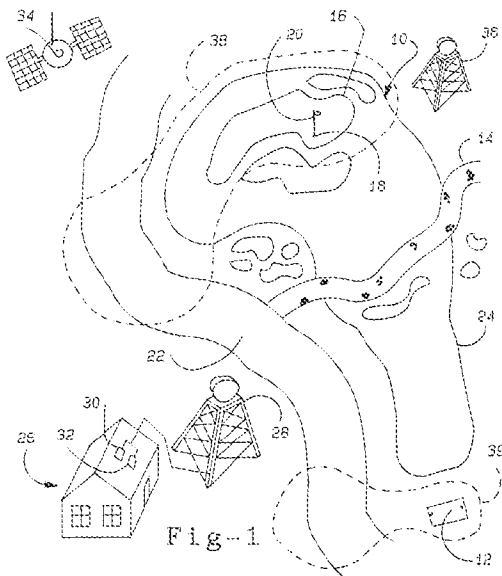
(1) Rejections under 35 U.S.C. 102

Claim 1

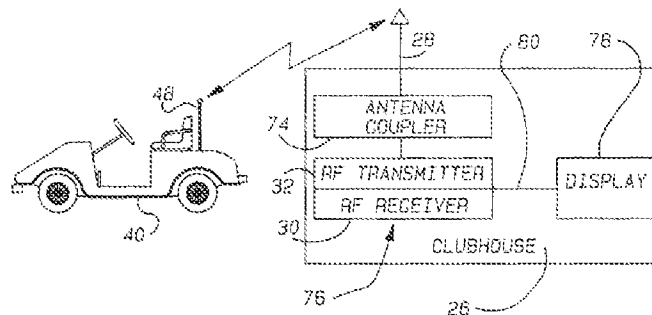
(A) The Examiner's position - That elements 30 and 32 of Dudley comprise a plurality of wireless access points disposed about the periphery of a golf course

The applicant pointed out in the Appeal Brief that Dudley did not teach provisioning a golf course with a local area network that comprises a *plurality* of wireless access points. Instead, as well described in Dudley's text and as shown in his FIG. 1, Dudley only taught

provision of a single wireless access point corresponding to the antenna tower denoted by reference numeral 28. The Examiner now seeks to assert that the two elements denoted as 30 and 32 in Dudley can serve instead in this regard.



“30” refers to a “radio frequency receiver unit” while “32” identifies a “radio frequency transmitter unit,” both of which share the same antenna.¹ With all due respect, the applicant observes that this transmitter and this



receiver comprise parts of a single “wireless access point.” There is nothing in Dudley to suggest that these elements are anything other than integral components of a single cooperative transceiver. In fact, Dudley expressly, and consistently, refers to these two components as being parts of a single “radio frequency transmitter/receiver unit 76.”² Dudley also clearly and unequivocally depicts these two components, in his FIG. 5 shown above, as comprising parts of a common integral platform denoted by this reference numeral 76.

¹ Dudley at column 5, lines 3-6.
² Dudley at column 6, lines 2-7.

This being the case, there is nothing in Dudley to support the Examiner's contention that Dudley discloses a plurality of wireless access points and hence there is no prima facie showing of anticipation.

(B) The Examiner's position - That a golf cart transceiver meets the applicant's definition of a "wireless access point"

The applicant noted in the Appeal Brief that the expression "wireless access point" is known in the art, that this expression is used consistently with that known meaning in both the specification and the claims, and that the Examiner's suggestion that Dudley's golf cart-mounted transceivers could be considered "wireless access points" was misplaced. The applicant noted, in stating this position, that it was "well understood in the field of computer networking that a wireless access point comprises a device that connects other network devices together."

The Examiner does not dispute the latter contention, but rather seeks to argue that Dudley's golf cart transceivers provide "a connection to the club house and hence meets the Appellant's own definition of a wireless access point."³

This is true in part, but it does not go far enough.

Dudley's golf cart radios do provide a connection to the club house as noted by the Examiner. In doing this, however, these radios are *not* connecting network devices together as is required by the agreed-upon definition of a wireless access point; that is to say, they are not a point of connection between two or more other network devices. Instead, they are an endpoint themselves in the network and do not serve to connect other network elements together. That these radios serve to connect a golfer to the clubhouse is irrelevant as the golfer does not comprise a "network device."

Accordingly, the applicant respectfully submits that the Examiner's attempt to employ Dudley's golf cart radios as "wireless access points" must fail.

(C) The Examiner's position - That an absence of the expression "endpoints" in the claims is meaningful

In making the points above the applicant (properly) characterized Dudley's golf cart radios as being "endpoints" in Dudley's network. This characterization was made to help the

³ Examiner's Answer at page 8, line 18 through page 9, line 1.

reader understand that these radios were not “wireless access points.” The Examiner now seeks to use the absence of the word “endpoints” from the claims as being helpful to his position.

At best, the Examiner's rationale is unhelpful. The applicant is not seeking to claim an endpoint but rather a wireless access point. The applicant used the expression “endpoint” to assist the Examiner in recognizing that the golf cart radios in Dudley are not “wireless access points.” The expression “endpoint”⁴ is well known in the art and is typically used in conjunction with the expression “wireless access point” (as often the latter serves as the point of attachment between a given endpoint and a given network). This being so, the applicant had presumed that it would be helpful to demonstrate what Dudley's golf cart radios were *not* (i.e., that they were not wireless access points) by noting what they *were* – network endpoints.

(D) The Examiner's position - That the applicant's definition of “automatic” is unduly narrow

Claim 1 requires that golf course infrastructure information be automatically updated, hence making the word “automatic” relevant to an assessment of novelty. The applicant noted in its Appeal Brief that every single transmission contemplated by Dudley was the result of direct human intervention. The Examiner argues that this is too narrow a view of the word “automatic” and that a system activation step which begins with a user asserting a button is rightfully included within its ambit.

Such a definition of “automatic” robs the word of essentially any meaning. Furthermore, this liberal treatment of the word completely ignores the applicant's specification. Paragraph 0024 of the applicant's specification, for example, provides in part as follows:

It will be well understood that such golf course infrastructure information 25 can comprise user-initiated transmission *and/or* automated transmissions. To illustrate, and as to the latter, [various details regarding specific automated transmissions are set forth] [emphasis provided].

Accordingly, it is clear that the specification draws a line and a distinction between an “automated transmission” on the one hand and a “user-initiated transmission” on the other hand; they are *two separate things*. This distinction as set forth in the specification, of course,

carries over and necessarily informs interpretation of the words of the claims and can even act in a manner contrary to an ordinary meaning as might otherwise be considered.

The written description must be examined in every case, because it is relevant not only to aid in the claim construction analysis, but also to determine if the presumption of ordinary and customary meaning is rebutted.⁵

The Examiner has offered no rebuttal to this position and seeks to rely only upon his notion of the ordinary meaning of the word “automatic.” Given the applicant’s specification, however, the limitation in claim 1 directed to “automatically updating golf course infrastructure information” *must* be read as excluding “user-initiated transmissions.” This, in turn, serves as a point of differentiation from Dudley’s teachings and obviates anticipation.

(E) The Examiner’s position - That an emergency call from a golfer to the golf course clubhouse for medical assistance is a “subscriber communication”

Claim 1 differentiates between “golf course infrastructure information” on the one hand and “subscriber communications” on the other. The applicant and the Examiner both agree that Dudley teaches the transmission of golf course infrastructure information but differ as to whether Dudley also teaches the transmission of subscriber communications. The Examiner suggests that using a golf cart radio to call the clubhouse to report a medical emergency (as is taught in Dudley) comprises an example of a subscriber communication.

In fact, this kind of information squares exactly with the applicant’s own characterization of the expression “golf course infrastructure information” which reads, in part, “Such information can comprise any information that relates to real time and/or planned or anticipated data or instructions as pertain to the status, operations, or maintenance of the golf course.”⁶ It is hard to imagine a communication that might have more to do with the “status, operations, or maintenance” of a golf course than such a call. Indeed, and in obvious recognition of this point, Dudley teaches that when such a communication arrives, the “operator in the clubhouse can detect the golf cart’s present position and can dispatch a course ranger immediately to respond to such an emergency.”⁷ These, of course, are actions that directly relate to and impact both the status and operations of the golf course.

⁴ And other similar expressions, such as “edge devices” and the like.

⁵ *Brookhill-Wilk I, LLC v. Intuitive Surgical, Inc.*, 334 F.3rd 1294 (Fed. Cir. 2003).

⁶ Specification at paragraph 0023.

⁷ Dudley at column 9, lines 1-3.

In contrast, the applicant explains in the specification that subscriber communications “can have little or nothing to do with the operation of the golf course itself. Instead, these communications can instead pertain *completely* to the interests and needs of the subscribers themselves.”⁸ As clear as it is that Dudley does support golf course infrastructure information in his system, it is even more clear that Dudley makes *no* suggestion or teaching that any *non*-golf course infrastructure information, such as subscriber communications, are also to be supported by such a system.

It is not enough that some of Dudley's communications, such as a medical emergency call, might be of interest to both the golfer and the golf course – what is relevant here is that *none* of Dudley's proposed communications are outside the interest of the golf course. Accordingly, as a “subscriber communication” is one that can relate to content that has nothing to do with the operation of the golf course, and as Dudley makes absolutely no teachings whatsoever in this regard, Dudley cannot be presented as anticipating such a limitation.

(2) *Rejections under 35 U.S.C. 103*

Claim 1

(A) The Examiner's position - That it would be obvious to duplicate Dudley's antenna (28) to provide a plurality of wireless access points disposed around the periphery of a golf course

As noted above, Dudley provides only a single antenna (denoted by reference numeral 28) in conjunction with a corresponding transmitter/receiver unit for his golf course communications infrastructure. The Examiner argues that it would be obvious to “duplicate” this antenna “in order to provide communications around geographical features of a course that would otherwise inhibit the transmission and reception of radio signals.”⁹

As was recently made clear by the Supreme Court in its *KSR* decision, one must apply common sense when considering an obviousness rejection and, in particular, one must be mindful of market forces that can motivate (or demotivate) the actions of a person skilled in the art with respect to making combinations or alterations of the prior art.

⁸ Specification at paragraph 0025, emphasis provided.

⁹ Examiner's Answer at page 4, line 20 – page 5, line 2.

To do as the Examiner suggests will of course necessarily increase the cost of the resultant system to include the installation and capital costs of duplicating Dudley's antenna tower and installing it somewhere else on the golf course. It goes without saying that such an alteration will also increase the ongoing costs associated with maintenance and can further give rise to costs that are associated with such system design issues as resolving coverage overlap dichotomies, hand-offs of in-process communications, and so forth.

Therefore, the person skilled in the art must have some good reason for wanting to endure these additional problems and costs in order to make the alteration being proposed by the Examiner.

As the Examiner has noted in the Examiner's Answer, golf courses containing at least nine holes are extremely old and well known in the art of golf.¹⁰ The general design and layout of these courses is also, then, well understood as well. Generally speaking, golf courses are, for the most part, flat. To be sure, there are perturbations in the terrain by way of very small hills, creeks, and sand bunkers, along with trees and shrubbery of varying sizes to present challenges to the golfers. Such accoutrements, however, present essentially *no* challenges to radio frequency-based communications as contemplated by Dudley. Indeed, Dudley's disclosed antenna tower is more than adequate for the simple task at hand – to provide coverage over a given golf course.

This being so, there is no particular reason why a person skilled in the art would wish to supplement such an antenna system and numerous market-driven reasons to avoid making such a change. In particular, and contrary to the Examiner's rationale, a typical golf course has *no* "geographical features" that might otherwise inhibit communications with such a tower. The Examiner's basis for making the proposed change to Dudley is therefore seen to be wholly lacking.

Accordingly, the applicant respectfully submits that one skilled in the art would not find it obvious to modify Dudley to include a plurality of wireless access points as suggested by the Examiner.

Claim 15

(A) The Examiner's position - That it would be obvious to utilize Siren's common communication network which encompasses residential areas in Dudley's network

The Examiner argues that the applicant has only argued that a combination of Dudley and Siren fails because Dudley fails to teach "subscriber communications." This position, however, oversimplifies the applicant's position and ignores another key point.

In particular, and regardless of whether Dudley does, or does not, include "subscriber communications," it is also clear that Dudley teaches that *all* network resources be available for the golf course infrastructure messages while Siren teaches that *all* network resources be available to subscribers. Accordingly, both references share a common point of view - that *all* wireless resources be available to *all* supported purposes.

Claim 15, however, specifies that only a "part, but not all" of the wireless communications resources be used to support golf course infrastructure communications. Neither Dudley nor Siren make any suggestion along anything remotely resembling these lines. Instead, both references teach that you support whatever functionality you have with *everything* you have. The only point of reference for doing anything other than this is the applicant's own specification, and that of course would require an impermissible use of hindsight.

Respectfully submitted,

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